

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

BAI MAYSON GBALA,

Civil No. 06-3774 (RHK/JSM)

Petitioner,

v.

REPORT AND RECOMMENDATION

UNITED STATES DEPT OF HOMELAND
SECURITY IMMIGRATION & CUSTOMS
ENFORCEMENT,

Respondent.

The above-named Petitioner commenced this action by filing a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2241. The matter has been referred to this Court for report and recommendation pursuant to 28 U.S.C. § 636 and Local Rule 72.1. For the reasons discussed below, it is recommended that this action be DISMISSED WITHOUT PREJUDICE.

The Court reviewed Petitioner's habeas corpus petition shortly after this action was commenced, and found the petition to be deficient in several respects. Therefore, by order dated September 21, 2006, (Docket No. 3), the Court dismissed the original petition, and directed Petitioner to file an amended habeas corpus petition that would cure the defects found in his initial submission. That order clearly informed Petitioner that if he did not file an amended petition by October 20, 2006, the Court would recommend that this action be summarily dismissed pursuant to Fed. R. Civ. P. 41(b).

The deadline for submitting an amended petition expired more than a month ago, and Petitioner still has not filed a new pleading. Indeed, the Court has received no communication of any kind from Petitioner since he filed his original petition more than two

months ago. Therefore, it is now recommended, in accordance with the Court's prior order, that Petitioner be deemed to have abandoned this action, and that the action be dismissed without prejudice pursuant to Fed. R. Civ. P. 41(b). See also Link v. Wabash Railroad Co., 370 U.S. 626, 630-31 (1962) (recognizing that a federal court has the inherent authority to "manage [its] own affairs so as to achieve the orderly and expeditious disposition of cases").

Because the Court has determined that this action should be summarily dismissed, it will also be recommended that Petitioner's pending application to proceed in forma pauperis, (Docket No. 2), be summarily denied as moot.

Based upon the above, and upon all the records and proceedings herein,

IT IS HEREBY RECOMMENDED that:

1. Petitioner's application to proceed in forma pauperis, (Docket No. 2), be **DENIED** as moot; and
2. This action be summarily **DISMISSED WITHOUT PREJUDICE**.

Dated: November 30, 2006

s/ Janie S. Mayeron
JANIE S. MAYERON
United States Magistrate Judge

Under D.Minn. LR 72.2(b) any party may object to this Report and Recommendation by filing with the Clerk of Court, and serving all parties by **December 18, 2006**, a writing which specifically identifies those portions of this Report to which objections are made and the basis of those objections. Failure to comply with this procedure may operate as a forfeiture of the objecting party's right to seek review in the Court of Appeals. A party may respond to the objecting party's brief within ten days after service thereof. All briefs filed under this rule shall be limited to 3500 words. A judge shall make a de novo determination of those portions to which objection is made. This Report and Recommendation does not constitute an order or judgment of the District Court, and it is therefore not appealable directly to the Circuit Court of Appeals.